

REMARKS

The Non-Final Office Action of September 3, 2008, has been considered by the Applicants. Claims 1, 6, 9, 10, 17, and 20 are amended. No claims are cancelled. Claims 1-20 are pending. Applicants request reconsideration.

Claim 9 was previously amended.

The Examiner requested the claim for foreign priority be described in the first paragraph of the specification. The specification has been amended as requested.

The disclosure was objected to for a misspelling of the word "talc." The specification has been amended to correct the error. Withdrawal of the objection is requested.

Claims 6, 11, 17, and 20 were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Applicants traverse the rejection.

The Examiner objected to the use of the phrase "and/or". Claims 1, 6, 10, 17, and 20 have been amended to remove this phrase. Claim 11 did not contain the phrase. Applicants request withdrawal of the indefiniteness rejection.

Claims 1-20 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Nomura (US Patent No. 5,013,773), Davidson (US Patent No. 5,091,453), Okimura (US Patent No. 5,489,648), Aoyama (US Patent No. 5,733,975), or Feng (US Patent No. 6,077,892). Applicants traverse the rejections.

Nomura does not anticipate. With regards to the inorganic filler, Nomura does not disclose the claimed amount of inorganic filler which should be included in the polymer composition. In addition, Nomura does not disclose the claimed particle size distribution of the inorganic filler. Nomura does provide an average particle diameter; however, this says nothing about the size distribution of the particles. Please note that the claims require at least 10 wt% of the total polymer composition to be particles with a size of "below 0.7 micrometers." Nomura discloses average particle diameter ranges of 0.3 to 10 μm , 0.5 to 2 μm , and 0.05 to 10 μm . None of these ranges disclose the claimed range with sufficient specificity to anticipate. See MPEP § 2131.03(II) and

Atofina v. Great Lakes Chem. Corp., 441 F.3d 991, 999, 78 USPQ2d 1417, 1423 (Fed. Cir. 2006) (a reference temperature range of 100-500 °C did not anticipate claimed range of 330-450 °C. While there was a slight overlap between the reference's preferred range of 150-350°C and the claimed range, that overlap was not sufficient for anticipation).

Davidson does not anticipate because he does not disclose the claimed particle size distribution. Davidson discloses average particle diameter ranges of less than 50 microns, less than 5 microns, and 0.5 to 2 microns. None of these ranges disclose the claimed range of "below 0.7 microns" with sufficient specificity to anticipate. The Examiner referred to the Examples as disclosing calcium carbonate having an average particle size of 0.7 microns. However, this does not provide any information about the particle size distribution. It appears the Examiner may be assuming that all of the particles had a particle size of 0.7 microns; this assumption is inappropriate in an anticipation rejection because no proof is provided that such a particle size distribution is inherent.

Okimura does not anticipate because he does not disclose the claimed particle size distribution. The Examiner referred to column 16, lines 60-65 as disclosing a particle size of 0.15 µm. Again, this provides no information about the particle size distribution. Any assumption that all particles had a size of 0.15 µm is inappropriate in an anticipation rejection.

Aoyama does not anticipate because he does not disclose the claimed particle size distribution. Aoyama's mean particle diameter ranges of "not more than about 10 µm" and "not more than about 5 µm" do not disclose the claimed range of "below 0.7 microns" with sufficient specificity to anticipate. The Examples use particles with a mean particle diameter of 0.15 µm and 1.8 µm. Again, this provides no information about the particle size distribution and any assumption that all particles had a size of 0.15 µm is inappropriate in an anticipation rejection.

Feng does not anticipate because he does not disclose the claimed particle size distribution. Only in Example 1 does Feng use calcium carbonate having an average particle size of 0.075 microns. This provides no information about the particle size

distribution and any assumption that all particles had a size of 0.075 μm is inappropriate in an anticipation rejection.

Applicants note that in regards to claim 18, none of the references appear to discuss the aspect ratio. Nomura discusses an aspect ratio relating to a granulated fiber, which is not the inorganic filler of the present claims.

Applicants request withdrawal of the anticipation rejections.

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Nomura, Davidson, Okimura, Aoyama, or Feng, in view of Hayashi (US Patent No. 6,020,411). Applicants traverse the rejections.

According to the Examiner, Hayashi shows Applicants' composition in the Table. Hayashi shows a composition having a mixture of CaCO_3 (average size 1.3 μm) and talc (average size 1.5 μm). Both of these particles are outside of the "below 0.7 μm " requirement for the particle size. It is not clear to Applicants how this fact remedies the deficiencies in each of the primary references noted above.

With respect to the primary references themselves, none of them appear to discuss the particle size distribution. Thus, there can be no motivation or suggestion to ensure the described inorganic fillers meet this requirement of the present claims. Please note the criticality of this requirement is illustrated in the examples, wherein the comparative examples all failed the single wire burning test. A minimum amount of inorganic filler of small particle size is required.

Applicants request withdrawal of the § 103(a) rejections.

To expedite prosecution, Applicants have also added new claims 21 and 22. These claims have support in the first paragraph at the top of page 8 of the specification. These two new claims essentially require a particle size distribution by specifying a percentage that must be above the 0.7 micron threshold.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (claims 1-22) are now in condition for allowance. Applicants request withdrawal of the rejection and issuance of a Notice of Allowance.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to telephone Richard M. Klein, at (216) 363-9000.

Respectfully submitted,

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11/5/2009
Date

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